

M e m o r a n d u m**335.0003**

To: Mr. Donald J. Hennessy

Date: October 25, 1989

From: David H. Levine

Subject: Annotation 330.1840 (10/5/65)

This annotation applies to leases of aircraft and was written before the amendment in 1967 to Section 6006 which added subdivision (g)(4) for MTE. This annotation should be renumbered and placed under Title 335, leases of MTE, and should be revised. The first subparagraphs (a), (b), and (c) should be reworded into one paragraph:

(a) It is presumed that the purchase was made for use in California, and use tax applies to the purchase price of the plane unless the use of the plane will be limited to leasing. If so, the use tax liability of the purchaser may be paid measured by the fair rental value of the plane if the purchaser makes a timely election to do so.

The second subparagraph (b) should be revised as follows:

(b) Since the lease of MTE is not a sale pursuant to Revenue and Taxation Code Section 6006(g)(4) but rather is regarded as use by the lessor, and since use tax does not apply to the purchaser's use of the plane in California, use tax also does not apply to the purchaser's lease of the plane.

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Apparently, the 5/15/91 memo is not around (I can't find it in my files either). However, that memo simply set forth how the annotation should be read since it was originally incorrectly transcribed. That is, the annotation was originally published with only the (a) & (b) above, which was incorrect. The paragraphs above were to replace paragraphs in the previous annotation – they were not meant to be the entire annotation. DHL 6/5/92.

This annotation was replaced by 335.0003. The number 330.1840 was then revised – i.e., the current 330.1840 is unrelated to this issue. DHL 1/5/99.